

# DECISION



24871  
THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

FILE: B-209531

DATE: April 15, 1983

MATTER OF: General DataComm Industries, Inc.

## DIGEST:

Contracting agency has primary responsibility for drafting specifications reflecting the minimum needs of the Government and GAO will not object in the absence of evidence of a lack of a reasonable basis for the questioned specification.

General DataComm Industries, Inc. (GDI), protests that request for proposals (RFP) DCA 200-82-R-0042, issued by the Defense Communications Agency (DCA), for 14.4 kilobits per second (Kbps) modems is restrictive of competition.

A modem is a device used to transmit data over telephone lines. The modems in this case will be used to transmit weather information, radar and beacon data and remote monitoring signals between Federal Aviation Administration centers, their associated radar terminals and flight service facilities. Kbps is the rate of transmission.

Essentially, GDI's protest that the RFP is unreasonably restrictive of competition is based on the allegations that only one manufacturer makes 14.4-Kbps modems and that 14.4-Kbps modems will not function reliably in the communications system for which they are being procured.

We deny the protest.

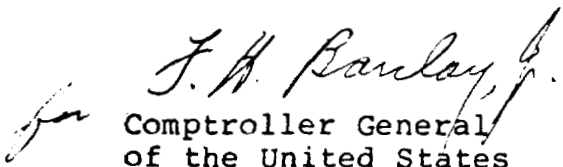
DCA indicates that there is more than one manufacturer of the 14.4-Kbps modems and that, based on Government tests and information furnished by actual users of 14.4-Kbps modems for thousands of hours, it is satisfied that the modems will operate at the required level of reliability. GDI disputes the level of reliability based upon tests which it conducted. DCA and GDI each disputes the validity of the other's tests and information. GDI suggests that we or some independent party should conduct tests on the modems to resolve the dispute.

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GDI is correct that we made a field investigation in Gardner Machinery Corporation; G. A. Braun, Incorporated, B-185418, September 15, 1976, 76-2 CPD 245, to determine whether a protester's washing machine met the Government's requirements. Also, GDI is correct that in U. S. Duracon Corporation, B-196760, February 22, 1980, 80-1 CPD 154, we criticized an agency for inadequate testing. The first case called for visual observations and in the second case there was a failure to conduct all the tests required by a published Government procedure. Neither situation is involved here. Further, we do not ordinarily conduct tests or require some independent party to do so to resolve disputes between contracting agencies and protesting parties. Moreover, we have held that the primary responsibility for drafting specifications that reflect the Government's minimum needs belongs to the contracting agency and we will not object in the absence of evidence of a lack of a reasonable basis for the questioned specification. Gardner Machinery Corporation, G. A. Braun, Incorporated, supra. We have also said the fact that potential offerors may be precluded from offering their products does not render the specifications unduly restrictive of competition if, in fact, it represents the legitimate needs of the Government. Gardner Machinery Corporation, G. A. Braun, Incorporated, supra.

Although there is a dispute between DCA and GDI as to the method of testing and the validity of test data, the determination of DCA that the 14.4-Kbps modems will achieve the level of reliability required is based upon supporting test results and information received from users of equipment and, thus, cannot be said to be without some reasonable basis. Therefore, we will not object to the specification.

  
Comptroller General  
of the United States